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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,870	02/09/2004	Brant L. Candelore	SNY-T5780.01	8804

24337 7590 01/09/2008  
MILLER PATENT SERVICES  
2500 DOCKERY LANE  
RALEIGH, NC 27606

EXAMINER
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MOORTHY, ARAVIND K

ART UNIT	PAPER NUMBER
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2131

MAIL DATE	DELIVERY MODE
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01/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

min

<b>Office Action Summary</b>	Application No. 10/774,870	Applicant(s) CANDELORE ET AL.	
	Examiner Aravind K. Moorthy	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>see attachment</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This is in response to the communications filed on 28 May 2004.
2. Claims 1-22 are pending in the application.
3. Claims 1-22 have been rejected.

#### *Information Disclosure Statement*

4. The examiner has considered the information disclosure statement (IDS) filed on 26 April 2004.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6, 10, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 10, 17 and 21 contain the trademark/trade name OpenCable™. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is

used to identify/describe compliant CableCARD and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**6. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Brooks et al U.S. Patent No. 7,047,305 B1.**

As to independent claim 1, Brooks et al discloses a method of manipulating a stream of video data in a CableCARD device, comprising:

receiving a stream of video data from a host, the stream of video data being encoded according to a first coding [column 6, lines 37-47];  
transcoding the stream of video data to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39]; and  
sending the transcoded data stream back to the host [column 10, lines 4-27].

As to claims 2 and 13, Brooks et al discloses that the stream of video data includes encrypted data [column 9, lines 40-56].

As to claims 3 and 14, Brooks et al discloses decrypting the encrypted data [column 23, lines 11-21].

As to claims 4 and 15, Brooks et al discloses encrypting the transcoded data stream [column 9, lines 40-56].

As to claims 5, 9, 16 and 20, Brooks et al discloses that the second coding comprises MPEG compliant coding [column 9, lines 40-56].

As to claims 6, 10, 17 and 21, Brooks et al discloses that the CableCARD comprises an OpenCable<sup>TM</sup> compliant CableCARD [column 11, lines 9-12].

As to claims 7, 11, 18 and 22, Brooks et al discloses that the second coding comprises MPEG 2 compliant coding. Brooks et al discloses that the first coding comprises one of MPEG 4 compliant coding, MPEG 7 compliant coding, Wavelet compression coding, and AVC coding [column 9, lines 40-56].

As to independent claim 8, Brooks et al discloses a method of manipulating a stream of video data in a CableCARD device, comprising:

receiving a stream of video data from a host, the stream of video data being encrypted and encoded according to a first coding [column 6 line 63 to column 7 line 5];

decrypting the encrypted data [column 23, lines 11-21];

transcoding the stream of video data to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39];

encrypting the transcoded data stream [column 9, lines 40-56]; and

sending the encrypted transcoded data stream back to the host [column 10, lines 4-27].

As to independent claim 12, Brooks et al discloses a CableCARD device for manipulation of a stream of data, comprising:

means for receiving a stream of video data from a host, the stream of video data being encoded according to a first coding [column 6, lines 37-47];

a transcoder that transcodes the stream of video data to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39]; and

means for sending the transcoded data stream back to the host [column 10, lines 4-27].

As to independent claim 19, Brooks et al discloses a CableCARD device for manipulation of a stream of data, comprising:

means for receiving a stream of video data from a host, the stream of video data being encrypted and encoded according to a first coding [column 6 line 63 to column 7 line 5];

a decrypter that decrypts the encrypted data [column 23, lines 11-21];

a transcoder that transcodes the stream of video data to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39];

an encrypter that encrypts the transcoded data stream [column 9, lines 40-56]; and

means for sending the encrypted transcoded data stream back to the host  
[column 10, lines 4-27].


***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aravind K Moorthy *AM*  
January 5, 2008

  
**AYAZ SHEIKH**  
**SUPERVISORY PATENT EXAMINER**  
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